

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO.39169 OF 2014

DATED:25-01-2016

Between:

M/s. Fashion Suitings Private Ltd.,
Swaroopgunj, Bhilwara District
Rajasthan
Rep. by its Authorized Person
Anil Kumar Asawa
R/o.16-11-741/7/9, Manju Apartments
Moosrabagh
Hyderabad ... Petitioner

And

The State of Telangana
Municipal Administration
and Urban Development Department
Secretariat
Rep. by its Principal Secretary
Hyderabad
and others ... Respondents

COUNSEL FOR THE PETITIONERS: Mr. Sreenivasa Rao Velivela

COUNSEL FOR RESPONDENT NO.1: A.G.P. for Municipal
Administration

(TS)

THE COURT MADE THE FOLLOWING:

ORDER:

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This writ petition is filed for a mandamus to set aside Letter No.86189/28/10/2013/HO/15-1, dt.22.1.2014, of respondent No.3, whereby he has directed the petitioner to produce Urban Land Ceiling (ULC) Clearance Certificate by the Special Officer and Competent Authority ULC, Hyderabad, for considering its building application, dt.28.10.2013.

The only ground on which the above mentioned proceedings have been questioned is that under Section 429(1)(aa) of the Greater Hyderabad Municipal Corporation Act, 1955 (for short, 'the Act'), read with Section 388 of the Act, in case of a plot which measures less than 1,000 sq. mts, a mere affidavit that the site is not declared as surplus land, is sufficient.

No doubt, ordinarily, in respect of a plot which measures less than 1,000 sq. mts., mere affidavit is sufficient for the reason that under the Urban Land (Ceiling and Regulation) Act, 1976 (for short, 'the ULC Act'), the land in excess of 1,000 sq. mts is declared as surplus land and that therefore in case of a plot of less than 1,000 sq. mtrs, the requirement of submitting certificate from the ULC authorities is not necessary. However, in the present case admittedly the survey number for which the building permission is sought, comprises a large extent, which was declared as surplus. Therefore, even though the petitioner's plot is less than 1,000 sq. mts., in area, it has become necessary for respondent No.2 to be satisfied whether the subject plot is a part of the area declared as surplus or not. Interestingly, the petitioner has not approached the Special Officer under the ULC Act for issue of the certificate. It has also not impleaded the Special Officer of the ULC in the present writ petition.

In the above facts and circumstances of the case, I am of the opinion that the impugned proceedings requiring the petitioner to produce the ULC certificate does not suffer from any illegality, and the writ petition is therefore dismissed, however, with the liberty to the petitioner to approach the Special Officer, ULC, for a certificate, and avail further legal remedies in the event it fails to secure such certificate.

As a sequel to dismissal of the writ petition, W.P.M.P. No.49125 of 2014 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

25-01-2016

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